



PUBLIC NOTICE

Federal Communications Commission
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DA 03-2779

**WIRELINE COMPETITION BUREAU SEEKS COMMENT
ON AT&T CORPORATION'S PETITION FOR PREEMPTION, PURSUANT TO
SECTION 253 OF THE COMMUNICATIONS ACT AND COMMON LAW
PRINCIPLES, OF SOUTH CAROLINA STATUTES THAT ESTABLISHED AN
INTERIM LOCAL EXCHANGE CARRIER FUND**

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Release Date: September 4, 2003

Comment Date: 60 days from publication in Federal Register

Reply Comment Date: 90 days from publication in Federal Register

On October 7, 2002, AT&T Corporation (AT&T) filed with the Commission a petition seeking preemption of the South Carolina statutes and administrative procedures that established the Interim Local Exchange Carrier (LEC) Fund.¹ According to AT&T, the Interim LEC Fund, which began operating in 1997, provides payments to incumbent LECs in return for decreasing their intrastate access charges.² Pursuant to section 58-9-280 of the South Carolina Code Annotated, entities receiving an access or interconnection rate reduction from the LECs are required to contribute to the Interim LEC Fund.³ AT&T alleges that, since long distance providers, such as AT&T, pay a majority of the access charges, long distance providers are responsible for funding almost all of the Interim LEC Fund.⁴ AT&T contends that the Interim

¹ See *Petition for Preemption, Pursuant to Section 253 of the Communications Act and Common Law Principles, of South Carolina Statutes that Discriminate Against New Entrants*, filed October 7, 2002 (AT&T Petition).

² AT&T Petition at 4-7. According to AT&T, the South Carolina General Assembly ordered the South Carolina Public Service Commission (PSC) to establish a universal service fund (USF), and the PSC issued a USF order in 2001. *Id.* at 7. AT&T claims that the Interim LEC Fund, however, has not been transitioned into the USF. *Id.*

³ S.C. Code Ann. § 58-9-280.

⁴ *Id.* at 5, 15.

LEC Fund violates section 253(a) of the Communications Act of 1934, as amended (Act)⁵ because it discriminates against: (1) new entrants by limiting their ability to compete with the incumbent LECs receiving support from the Fund and (2) long distance providers by requiring only those providers to contribute to the Fund.⁶ AT&T also argues that the Fund does not qualify for preemption protection under section 253(b) of the Act because the Fund is not competitively neutral and not consistent with the requirements for federal universal service programs set forth in section 254 of the Act.⁷ Accordingly, AT&T asks the Commission to preempt South Carolina's Interim LEC Fund.⁸ The Wireline Competition Bureau seeks comment on the AT&T Petition.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before 60 days from publication in the Federal Register, and reply comments on or before 90 days from publication in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial

⁵ 47 U.S.C. § 253(a).

⁶ *Id.* at 11-12, 15-16.

⁷ *Id.* at 3.

⁸ *Id.* at 3-4.

overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20054.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Vickie Byrd, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.